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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 273rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 January 1996, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Iceland (CRC/C/11/Add.6; CRC/C.11/WP.8) (continued)

1. At the invitation of the Chairperson, Mr. Gudbrandsson, Mr. Gunnarsson, Mr. Kjartansson, Ms. Pálsdóttir and Ms. Thorarensen (Iceland) took places at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to ask questions on the sections of the list of issues (CRC/C/11/WP.8) entitled "Definition of the child" and "Civil rights and freedoms", which read:

"Definition of the child
(Art. 1 of the Convention)

12. Please provide clarification as to the age at which a child may request medical counselling without parental consent and the age of sexual consent.

13. Do the child welfare committees' activities cover the issues relating to young persons?

Civil rights and freedoms
(Arts. 7, 8 13-17 and 37 (a) of the Convention)

18. In the cases where it appears that a differentiation is made on the grounds of the gender of the parent in relation to a child's acquisition of nationality, particularly in situations where the child is born out of wedlock and/or one parent is non-national, how is national legislation ensuring its conformity with the articles of the Convention, particularly the provisions of its articles 2, 3 and 7? Please provide clarification as to the measures in place to ensure the right of every child to a nationality at birth.

19. As regards freedom of thought, conscience and religion, how are the child's views taken into account in practice with respect to decisions on a child's joining or leaving a religious denomination? (Para. 122 of the report.)"

3. Mrs. KARP said that the new amendment to the Constitution appeared to emphasize the protection of children more than their rights. That was clearly a step forward for the Government of Iceland, which had been criticized for granting adult status to children at a very early age, thereby removing them from the scope of child welfare measures.

4. The attitude of the Icelandic Government was progressive in that it gave young people certain rights at the age of 16. However, such rights might place too great a burden on children of that age.

5. In her view, not enough attention was being paid to the Icelandic child's right to education, recreation and leisure time. For instance, according to

the report, the working time of children aged 14 and 15 could not exceed the normal working time of adults employed in the same occupation and young persons aged 16 and 17 years were not permitted to work more than 10 hours per day. Such a workload seemed rather heavy. How was the child's right to education protected in such cases? Was there any mechanism for implementing child labour laws and monitoring enforcement?

6. According to paragraphs 77 and 186 of the report, a child had the right to its parents' custody until the age of 16, but, according to paragraph 189, the parents' obligations with regard to support ended when the child had reached the age of 18. Could the delegation of Iceland clarify the discrepancy between those two statements?

7. She would also appreciate clarification on what appeared to be a difference between civil and criminal law in respect of the obligation of children to appear as witnesses.

8. In Iceland, children under the age of 16 had the right to refuse medical treatment, except in special circumstances where the Ministry of Justice was authorized to intervene. Were adults also subject to the same regulations and could they be treated against their will? In cases of a potential conflict of interest between parent and child with regard to treatment, were children under 16 required to have their parents' consent to seek treatment? How were children protected from possible exploitation by health professionals?

9. According to the report, age was the criterion for placing young offenders in prisons for juveniles or adults. More information on that matter would be appreciated.

10. The report failed to mention any special institutions for the treatment of young people who abused drugs or suffered from mental disorders. Were there any plans to set up such services?

11. Mr. GUNNARSSON (Iceland) said that the definition of the child was changing in his country as it moved closer to the general standards in other European countries. In the past, children in Iceland had actively participated in the labour force owing to the predominance of the country's traditional industries of fishing and agriculture, which often involved the entire family. Currently, many young people took seasonal jobs; more short-term jobs were available in the summer months and the three-month summer vacation gave them time for both work and leisure.

12. Ms. THORARENSEN (Iceland) said that the legislation with regard to the age of legal competence was under comprehensive review and had given rise to significant debate. For many, there was no reason to change the current law, which granted the individual personal competence at the age of 16, because it represented only a "theoretical" status for most young people of that age, who continued to live at home. Others maintained that, by acquiring personal competence at the age of 16, children between the ages of 16 and 18 were then deprived of adequate child welfare protection.

13. While special protection measures might not cover 16- to 18-year-olds, young people in that category did have the advantage of being wage-earners.

Legislation in Iceland allowed persons aged 16 and over to work and to control their own income. Most young people were eager to take summer jobs and there had even been complaints, at least in urban areas, that it had become more difficult in recent years to find employment during vacation periods. It might be true that children in village communities were working longer hours than those in the cities and that matter would be taken under review.

14. Mr. GUDBRANDSSON (Iceland) said it was true that there was some ambiguity in the way in which his Government defined the term "child". The definition varied depending on the legislation. There were two main reasons for that situation: the lack of an official policy on children's affairs and the rapid social development which Iceland had been undergoing in recent years, with the concomitant rush of legislative acts, not always coordinated with one another.

15. With regard to the age of majority, an issue which was under review and had given rise to much debate, personal competence was in principle granted to 16-year-olds, but had no real meaning in practice. A disadvantage of the current system was, for instance, that drug users over 16 years of age could usually not be required to submit to medical treatment.

16. Ms. PALSDOTTIR (Iceland) said that medical treatment for children under 16 required the consent of the parents. Individuals acquired the right to consent to or refuse medical treatment at age 16. Nevertheless, according to the Legal Competence Act of 1984, where the individual (over the age of 16) was deemed incapable of making an appropriate decision regarding treatment as a result of drug or alcohol abuse or a psychiatric disorder, a judicial review could be conducted in order to countermand the individual's decision.

17. Physicians did face a dilemma when young people under 16 applied to them for treatment without their parents consent. Yet, in practice, most doctors provided treatment in such cases and were careful to respect the confidentiality of their young patients.

18. The Protection of Children and Young Persons Act protected children whose parents were unwilling to consent to necessary medical treatment. In such cases, it was up to the child protection authorities to determine the best interests of the child.

19. Young people were regarded as independent beneficiaries under the social security system as of age 16.

20. Ms. THORARENSEN (Iceland) said that, on attaining personal competence at the age of 16, the child was free to decide on personal matters, including his place of residence and place of work, but the parents of that child were still bound to support him.

21. Mrs. KARP noted that Icelandic judges had the discretionary power to determine whether the trial of a child should be heard in closed chambers. Under what circumstances did they exercise that power?

22. The 1995 Primary Schools Act provided for a lower level of participation by children in the administration of schools than had the legislation it had replaced. In view of the right of a child to express his opinion in matters that concerned him, what was Iceland's reason for that change?

23. The report stated that a child born out of wedlock in Iceland to an Icelandic father and a foreign mother did not receive Icelandic nationality. Had Iceland considered the establishment of a special procedure that would give effect to the right of such a child to a nationality? The report also indicated that parents could not change the religious denomination of a child over the age of 12 unless the opinion of that child had been sought. On what basis had Iceland chosen the age of 12?

24. Ms. THORARENSEN (Iceland) said that Icelandic law gave a judge the authority to conduct closed proceedings under a general set of circumstances. In practice, proceedings in cases involving the sexual abuse of children were always closed and the identity of both the child and the parents was concealed.

25. In custody disputes, parents could turn either to the courts or to the Ministry of Justice; the great majority chose the latter. The State was under a legal obligation to seek the opinion of a child over the age of 12. As a matter of principle, however, the views of a child were always sought in custody decisions, depending on his age and his ability to respond. Rather than confronting a child with a direct question, psychologists and social workers tried to assess his preferences and attitudes.

26. At the time of the enactment of the 1952 Citizenship Act, the Nordic countries had taken the position that no person should be permitted to acquire dual nationality and that a child should therefore acquire his mother's nationality, regardless of her whereabouts. Foreigners acquired Icelandic citizenship through naturalization. It might indeed be argued that legislative provisions should be adopted to allow the naturalization of a child born in Iceland to a foreign mother.

27. It could always be asked why one age had been chosen and not another. Iceland had asked the national statistical authority whether children under the age of 12 sometimes expressed the wish to keep their religion when their parents converted to another denomination. The answer had been that Icelandic children rarely raised questions of religious belief until the time of their confirmation approached. Icelandic children enjoyed the absolute right to refuse to be confirmed and it was not uncommon for them to do so. Furthermore, a parent who wished to change the religious denomination of a child over the age of 12 had to obtain the child's written consent.

28. Mr. GUDBRANDSSON (Iceland) said the Protection of Children and Young Persons Act stated that children over the age of 12 had the right to express their opinions with regard to matters that concerned them and allowed younger children to express themselves in accordance with their capacities. That basic principle had been incorporated into the rules of procedure of the Child

Welfare Council and applied, in particular, in the child welfare committees, which took final decisions in child protection cases. The Act also stipulated that the child welfare committees should, under special circumstances, appoint a spokesman to assist a child in expressing his views.

29. Icelandic schools had failed to implement the provisions of the 1991 Primary Schools Act because teachers and principals were uncomfortable with the presence of students in teachers' meetings, where delicate matters involving their peers were sometimes discussed. Although it was too soon to evaluate its success, the 1995 Primary Schools Act stood to provide a better forum for the expression of the views of students. Under that new Act each primary school would have a teachers' council, a parents' council and a student council; through the student council, students could express their views and lodge formal complaints. Those three bodies would meet together at least twice yearly, mainly to consider the development and the implementation of the local school plan. Children in Icelandic schools also enjoyed many opportunities to comment on curricula and teaching methods and were often consulted in matters directly affecting them. Most classroom teachers set aside special hours for talks with students about their concerns.

30. Mrs. BADRAN asked whether Iceland had considered the possibility of counselling for children to prepare them for participation in a student council.

31. Mrs. KARP said that, since it was teachers who had been uncomfortable with the presence of students in meetings, perhaps counselling should be provided to them as well.

32. Mr. KJARTANSSON (Iceland) said that one of the aims of primary school education was to teach students to live and work in a democratic society and schools therefore had to set an example. The Primary Schools Act provided that one teacher should assist each student council; that teacher would function as a trainer. Iceland's eight regional education councils might be requested to take up the matter of the counselling of teachers.

33. The CHAIRPERSON invited the members of the Committee to consider the section of the list of issues entitled "Family environment and alternative care", which read:

> "Family environment and alternative care
> (Arts. 5, 18 paras. 1 and 2, 9-10, 27 para. 4, 20-21, 11, 19 and 39, and 25 of the Convention)
>
> 20. What measures have been taken for the development of a comprehensive campaign to prevent and combat the neglect, ill-treatment and abuse of the child within the family?
>
> 21. Has the Government considered the possibility of introducing compulsory maternity and paternity leave?

22. Please comment on any further steps taken to implement articles 9 paragraphs 1 and 4, 10, 11 and 21 of the Convention, including with respect to the stated intention of the Government to ratify the international and regional instruments mentioned in paragraphs 255 and 260 of the report.

23. Has any evaluation been undertaken recently with respect to the adequacy of the systems and procedures for providing support and training to families offering foster care and to so-called 'support families' as well as for monitoring the care given to children in foster homes or similar arrangements?

24. What procedures exist for children to lodge complaints of abuse or neglect?"

34. Mrs. EUFEMIO commended Iceland on its commitment to upholding the rights of children in family life. Unfortunately, however, it seemed that the State could only intervene in cases where parents grossly neglected their children, and then only on the order of a court. In view of article 5 of the Convention, Iceland should consider the development of measures to prevent child abuse which would not require recourse to the law. Did it, for example, plan to provide counselling to single parents with young children, as well as to couples applying for marriage licences? It would also be useful to know how Icelandic parents acquired the knowledge and skills by which to assess the "evolving capacities" of their children so as to provide them with appropriate guidance in the exercise of their rights. Had research been conducted in Iceland to define what was meant by "evolving capacities" at the various developmental stages?

35. The Icelandic Government had been considering an increase in material support to young families, especially single-parent ones. Since case-studies had shown that child abuse was closely linked to isolation and loneliness, Iceland might consider providing other forms of social support as well. Had it adopted measures to revive or sustain such vanishing institutions as the extended family, the neighbourhood and the community? Information would also be welcome on the role played by elderly persons in family life.

36. Social workers were traditionally trained with an emphasis on the provision of welfare services. The Convention nevertheless advocated an approach which focused on the active engagement of the social worker in the promotion of the rights of the child. It was crucial that child welfare authorities should be granted the right to enter a private home without the consent of parents when there was reason to suspect that children were being abused or neglected. What programmes had been developed to provide psychological rehabilitation to parents or to remove abused children from the home?

37. On a related issue, she asked what was done when psychosocial evaluations and court rulings differed. Did the courts take decisions without the opinion of a psychologist? Were parents and children interviewed in person by the courts?

38. She would like to know how the staff of the child welfare committees was chosen and whether social workers, psychologists and other specialists were employed.

39. Turning to the day-care programme, she inquired how the cognitive and developmental needs of preschool children were furthered, how interaction between the children was promoted, whether parents were involved and whether there was any feedback on children's development. If a teacher noticed that a child had a problem, was it communicated to the parents? She had read that only one half of all children between the ages of six months and six years were in day-care programmes. What about the other half? The report spoke of day care in private homes. Was that an accredited arrangement? What other measures were envisaged to develop the day-care programme?

40. How did foster care compare with adoption in providing a stable environment for children? Would it not be more beneficial to allow some children in foster care to be adopted instead? What legal form of adoption was best suited to meeting the needs of Iceland's children?

41. How were NGOs and neighbourhood organizations involved in implementing the articles of the Convention relating to family environment and alternative care?

42. She considered the idea of "support families" (para. 238 of the report) to be a good one and asked whether there were any plans to introduce that scheme throughout the country and to enlarge its aims to include support for the mothers who entered into such an arrangement and help them overcome their isolation. How were "support families" recruited, supervised and assisted?

43. Mr. HAMMARBERG asked what information was made available to foster parents to brief them on their responsibilities. Had any thought been given to developing a comprehensive approach to domestic violence that included new legislation, support and information campaigns?

44. Given the rapid rate of change in family structures and lifestyles, had there been any effort to develop a programme of parental education and family counselling?

45. Mr. KOLOSOV inquired whether Iceland was a party to the Convention relating to the Status of Stateless Persons.

46. Mrs. KARP asked whether professionals and, for that matter, the public at large were under an obligation to notify the police or the welfare authorities of suspected cases of child abuse. Was there any coordination between the police, prosecutors and welfare services in deciding how to deal with child abusers? In cases of child custody, was the child personally heard by the authorities or were his views made known to the authorities by someone else?

47. She was interested in the idea of spokespersons and requested further information on how they were appointed, what their functions were and whether they represented children on legal matters or merely served as a conduit for making children's opinions known.

48. Mr. GUNNARSSON (Iceland) said that Mrs. Eufemio had raised a host of complex issues on the role of Government in society. Governments tried to do many things, but there were limits to their possibilities. Moreover, States sometimes faced conflicting obligations, such as guaranteeing the privacy of the home while ensuring that cases of child abuse did not go undetected and unpunished. The need to respect the presumption of innocence must also be borne in mind.

49. With regard to parental awareness, he stressed that the goal of Iceland's educational system was to prepare children to be responsible members of society and the family was perhaps the most important part of any such effort. As to the interesting question on whether the benefits of the extended family were in danger of being lost in a society undergoing rapid structural change, he noted that, although several generations no longer lived together under one roof, family ties remained close. Single mothers, for example, did not live in a social vacuum and all members of the extended family continued to help one another.

50. In reply to Mr. Kolosov's question, he said that Iceland was not a party to the Convention relating to the Status of Stateless Persons.

51. Mr. GUDBRANDSSON (Iceland), replying to a question by Mrs. Eufemio, said that the role of the Government was not limited to cases of child abuse, but also included parental counselling and sex education. The idea of preventive measures was essential to the welfare, health-care and educational systems and his department, the Government Agency for Child Protection, was working to enhance its efforts in that important area. But, as responsibility lay with the local authorities, which were weak, there were problems with the implementation of such measures.

52. Replying to the question whether one focus of parental education was to help ensure protection of the participatory rights of children, he said that, apart from isolated cases in certain schools, that issue did not generally arise.

53. Turning to the question on support for single parents with young children, he said that certain social services departments were working in that area at the local level. For example, a number of municipalities had created self-help groups of single parents. In view of Iceland's small size, its society was closely knit and the problem was thus not as great as in big countries where millions of people lived. The problem did, however, exist in Reykjavik, which was Iceland's only city with more than 100,000 inhabitants, and his Government recognized the need for action in that regard.

54. In Iceland, it was common to speak of the "informal welfare system", which consisted of the circuit of neighbour and family assistance and was a typical feature of Icelandic society. Having developed in the short space of 30 years from an agricultural to an industrial country, Iceland still benefited from informal social structures, which his Government continued to promote. Such structures represented a fundamental difference between Iceland's welfare system and those of the other Nordic countries.

55. The training of social workers focused more on child protection than on promoting the participatory rights of children, a subject which had perhaps not received the attention it deserved. Social workers were educated either at the University of Iceland or in other Nordic countries. In reply to the question on how the child welfare committees approached parents in cases of child abuse and what the procedure was for removing children from the home, he said that, under the Protection of Children and Young Persons Act the approach taken must be a supportive rather than a punitive one, the aim being to assist parents in giving children the best possible upbringing. A main feature of the approach was cooperation with the parents concerned.

56. He acknowledged that there was sometimes a conflict between the psychosocial dimension and the legal aspects of child abuse cases, but, in recent years progress had been made in working out an interdisciplinary approach that involved improved communication between child welfare committees, the police and the health-care sector. That had been particularly effective in cases of sexual abuse.

57. The members of child welfare committees were appointed by the local authorities. The decision to remove a child from a family was not merely a legal question, but also an ethical one, and, for that reason, there had at first been an attempt to appoint laymen to the child welfare committees. More recently, however, the trend had been towards finding persons with some professional knowledge of the subject, such as preschool teachers. The above-mentioned Act also provided that a lawyer should be on the committee or should at least take part in decisions of a formal nature. The child welfare committees had been criticized for their dual role, in that they offered support at the same time as they themselves ruled on cases. That was expected to change and the two contradictory roles would be separated.

58. The Protection of Children and Young Persons Act specifically stated that the child welfare committees must have access to professionals. In many rural areas, however, the committees did not have professional staff working for them. He could nevertheless assure the Committee that, in the most serious cases of child abuse, the professional assistance of experts was regularly sought. Indeed, one function of the Government Agency for Child Protection was to provide support to the child welfare committees in that area. Admittedly, much still remained to be done.

59. Iceland believed that its preschool day-care programmes did indeed meet children's cognitive and developmental needs. Parents were closely involved in the activities and the law stipulated that preschools must have parents' councils. Any preschool teacher detecting an abnormality in a child must by law report the fact to the parents and in some cases to the authorities. The preschool system now covered about 70 per cent of children aged three to five, but only 40 per cent of children aged two to six. However, children who were unable to attend a preschool programme had access to family day care. The new regulations on family day care included provisions on advice and support for local authorities in providing the service and the children involved were entitled to the same services as children in preschools.

60. The Committee had rightly noted that many children were in permanent foster care and had asked why more use was not made of adoption. The issue

was a complex one and the Icelandic authorities did not regard it as desirable to press for adoption. Many children were in fact adopted by their foster parents, but many also returned to their biological parents, who were legally entitled to seek a review of the separation order. Except in rare cases the rights of children were not enhanced by adoption.

61. There had been a change of attitude in Iceland over the past few years with regard to the activities of NGOs, which were now generally welcomed. The Government Agency for Child Protection maintained good relations of cooperation with many NGOs.

62. Support families were usually recruited by local authorities through newspaper advertisements. Interested families received training and their support activities were supervised by social workers. The arrangement had proved very effective in cases of child abuse and in providing support to single mothers.

63. Turning to Mr. Hammarberg's questions, he said that the issue of the provision of information to foster parents was very much on the agenda. In the past, foster parents had not received adequate training and the situation had recently been assessed as serious. One of the main aims of the Government Agency for Child Protection was to take over responsibility for that part of the child welfare provisions, which had formerly been the responsibility of individual child welfare committees. The Agency assessed the suitability of prospective foster parents and provided the committees with funds and other assistance in meeting the need for foster parents. A second aim was to organize training programmes and on-going support for foster parents, as well as support for the committees in selecting the parents, matching children to families and supervising the care given to children in foster homes; the Agency also kept a register of foster parents. All those arrangements were new, but the Icelandic authorities believed that they would bring about great improvements.

64. There had been much debate about the issue of domestic violence in Iceland and several actions had been taken: a crisis centre for battered women had been opened; support was now provided both by the Ministry of Social Affairs and by the local authorities; and a number of NGOs were actively involved with the issue. But much remained to be done and Iceland was seeking new ways of tackling the problem.

65. There had also been much debate about the education of parents and family counselling, for which there was inadequate provision in Iceland. Once again, the need to work through the local authorities could create difficulties. One result of the debate was that the Ministry of Social Affairs had offered to provide financial incentives for local authorities to work with the new family counselling centres. The first centre was to open in Reykjavík in a few weeks' time. Other bodies, such as the Church and NGOs, were already providing counselling services.

66. The first question put my Mrs. Karp concerned the mandatory reporting of child abuse by the police and the public at large. The Protection of Children and Young Persons Act stipulated the obligation of the public and of professionals to report any signs of child abuse to a child welfare committee.

One of the functions of the Government Agency for Child Protection was to inform the public and professionals about that statutory obligation. The authorities hoped that much more would be done in that area in future.

67. Iceland took a multidisciplinary approach to the investigation of cases of child abuse reported to the child welfare committees. The committees themselves began the procedure by collecting information from, for example, schools and health centres, and with the involvement of the parents. In more serious cases, the police were brought in. It was important to stress that treatment services were always offered to offenders and to the children, with the sole exception of cases of sexual abuse, when the authorities preferred to take no chances.

68. Children were generally able to express their views in interviews with professionals such as child psychologists and social workers. They were also allowed to meet members of their local child welfare committee and were sometimes encouraged to do so in their own interest. The spokesmen appointed for children also helped them to make their views known, but had an additional obligation to work for their best interests and the protection of their rights. The legislation on the new procedure had been in place only since 1993 and there had so far been only five cases of the appointment of a spokesman. However, that limited experience already indicated that the arrangement was a very good way of dealing with the problem.

69. Ms. PALSDOTTIR (Iceland) said that one of the aims of the school system was to prepare children to participate in society, especially in their future role of parents. But the family also had an important function in imparting moral values. Paragraphs 278 and 279 of the report described the role of the State in the extensive system of care of pregnant women and newborn children. Mothers were provided with information about child care during their regular prenatal and postnatal health checks. Participation in the voluntary courses available for mothers and fathers was increasing.

70. The Health Services Act envisaged a role for the health centres in providing counselling for parents and families. The subject had perhaps received insufficient attention in the past, but there were now more than 70 health centres accessible to parents needing guidance. The centres were also responsible for health care in the schools. Most schools had a nurse who examined the pupils twice a year and had an obligation to report any signs of negligence or abnormality. Schoolteachers, of course, had the same obligation.

71. Although the child welfare centres and the courts followed different procedures, their common prime concern was the welfare of children. When a court became involved in a case of child abuse, it did of course take into account the work already done by the child welfare committee. The law did indeed stipulate that the members of the committees must be laymen, but it added that they must have some specific knowledge of children's issues.

72. The Ministry of Justice had recently been instructed by the Parliament to look into the question of domestic violence, which was now being brought out into the open in Iceland. A committee had been established to assess the extent of the problem and make recommendations to the Ministry. The Equal

Status Council also had a very active men's committee which carried out research into the situation of men in the changing circumstances of Icelandic society; it too was addressing the domestic violence issue.

73. She emphasized the point made by her colleague that everyone working with children had an explicit legal duty to report any cases of abuse or neglect of children. In the past, health-care professionals had been impeded in carrying out that duty by a misunderstanding about their patients' right to confidentiality. The Government was considering introducing legislation to make it clear that the duty of confidentiality took second place to the duty to report abuse or negligence.

The meeting rose at 1 p.m.